

ORDINANCE NO. 2016-__

CITY OF CAVE SPRINGS, BENTON COUNTY, ARKANSAS

AN ORDINANCE AMENDING CHAPTER 5.08 SOLID WASTE COLLECTION, OF TITLE 5 HEALTH AND SANITATION OF THE CAVE SPRINGS MUNICIPAL CODE IN ORDER TO CLARIFY AND AMEND THE SOLID WASTE OPERATIONS OF THE CAVE SPRINGS.

WHEREAS, Ark. Code Ann. § 8-6-201 et seq. requires every municipality to have a system in place to provide for the collection and disposal of solid waste;

WHEREAS, on December 12, 2011, the City Council of Cave Springs adopted Ordinance No. 2011-16 to provide for the regulation of solid waste and recycling collection and disposal within the city and said Ordinance No. 2011-16 thereafter codified in Chapter 5.08 Solid Waste Collection in the Cave Springs Municipal Code;

WHEREAS, on April 12, 2016, the Cave Springs City Council approved an Amended and Restated Solid Waste Service Agreement with Waste Management to provide for a system of collection and disposal of residential, commercial and industrial solid waste in the city;

WHEREAS, the City Council of the City of Cave Springs now finds it to be in the best interest of the citizens of the City of Cave Springs to amend the Cave Springs Municipal Code to better provide for the collection of residential, commercial and industrial solid waste in the city; and

WHEREAS, having fully reviewed the proposed amendment, the Cave Springs City Council has determined that Chapter 5.08 Solid Waste Collection, of Title 5 Health and Sanitation, of the Cave Springs Municipal Code should be revised and restated in its entirety as set forth herein below.

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the City Council of the City of Cave Springs, as follows:

Section 1. Chapter 5.08 Solid Waste Collection, of Title 5 Health and Sanitation, of the Cave Springs Municipal Code is hereby revised, in its entirety, to read as follows:

5.08.01 Definitions The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Approved Container” means a 65-gallon container provided by the Contractor with wheels and a lid for the collection of acceptable Solid Waste and a 65-gallon container provided by the Contractor with wheels and a lid for the collection of recycling.

“Brush” means any cuttings or trimmings from trees, shrubs, or lawns, and similar materials. The term "Brush" specifically excludes limbs that are greater than four (4) feet in length, and specifically excludes debris resulting from services of a Commercial service provider.

“Bulky Waste” means waste to include furniture, appliances, metal items, larger items not normally collected from the weekly residential collection programs. Items not considered Bulky Waste include construction materials, tires, paint, hazardous waste, pesticides, appliances containing Freon, and any item specified as Excluded Waste.

“Bundle” or “Bundles” means tree, shrub and brush trimmings securely tied together forming an easily handled package, not to exceed four (4) feet in length, six (6) inches in diameter, or fifty (50) pounds in weight.

“City” means the City of Cave Springs, Arkansas.

“City Water Residential Unit” means any occupied single-family residence, condominium, duplex, triplex or multi-unit dwelling place, within the corporate limits of the City that is a customer of the city municipal water department. A City Water Residential Unit shall be deemed occupied when either water or domestic light and power services are being supplied hereto.

“Commercial Waste” means Solid Waste generated by a commercial establishment or a multiple residential unit, business, or combined units of businesses that streamline waste into consolidated containers that typically generate more than two (2) cubic yards of solid waste per week.

“Contractor” means the sanitation company approved by the City for residential, commercial or industrial solid waste and recycling services. **“Approved Subcontractor”** shall mean an agent or subcontractor of Contractor specifically authorized and approved by the City to collect solid waste and recycling in the City.

“Excluded Solid Waste” includes, but is not limited to, medical waste, construction and demolition waste (except in roll-off containers), large bulky items, appliances, batteries, paint, items containing an engine or compressor, items containing CFCs or PCBs (such as white goods), and any radioactive, volatile, flammable, explosive, toxic or hazardous substance or material, including any substance listed or characterized as toxic or hazardous by any applicable federal, state, or local law.

“Extraordinary Materials” means hazardous wastes, body wastes, dead animals, abandoned vehicles, vehicle parts, large equipment and parts thereof.

“Extra Solid Waste” or “Extra Bags” means any solid waste that will not fit inside the Provided Container.

“Franchise Fee” means 4% of the total collected receipts from the collection of Residential, Commercial and Industrial Waste in the City which is payable to the City as provided by the agreement between the Contractor and the City.

“Industrial Waste” means Solid Waste generated by industrial establishments.

“Garbage” means the same as Solid Waste.

“Hazardous Materials” means wastes that are hazardous by reason of their pathological, explosive, radiological or toxic characteristics, or by virtue of their being defined as hazardous by any state or federal law or regulation.

“Non-City Water Residential Unit” means any occupied single-family residence, condominium, duplex, triplex or multi-unit dwelling place, within the corporate limits of the City that is not a customer of the city municipal water department. A Non-City Water Residential Unit shall be deemed occupied when either water or domestic light and power services are being supplied hereto.

“Non-Recyclable Materials” mean Solid Waste that will not be collected by the Contractor for sale in a spot or future market for processing and use or reuse including, but not limited to, glass, light bulbs, porcelain, plastic bags, plastic containers with symbols #3 through #7 and such items as indicated from time to time as Recyclable Materials by the Contractor.

“Recyclable Materials” mean Solid Waste collected by the Contractor that can be sold in a spot or future market for processing and use or reuse including, but not limited to, newsprint, magazines, plastic (PET and HDPE) bottles, aluminum and ferrous cans and such items as indicated from time to time as Recyclable Materials by the Contractor.

“Reduced Rate” means a program offered senior citizens, age sixty-five (65) or older, or those with documented disabilities, who would receive reduced Solid Waste and Recycling collection services at a reduced rate. To participate in this program, the individual resident shall make application to Contractor for approval.

“Residential Waste” means Solid Waste generated by residences as well as businesses that generate less than two (2) cubic yards of Solid Waste per week.

“Solid Waste” means all putrescible and non-putrescible waste in solid or semisolid form including, but not limited to, garbage, rubbish, ashes or incinerator residue, or street refuse, but excluding yard waste, extraordinary materials, hazardous materials, and special materials, as defined herein.

“Special Materials” means those bulky materials or other special wastes that are not stored in approved containers and cannot be picked up by hand.

“Trash” means the same as and shall be defined as solid waste.

“**Unit**” means residence, business or industry within the city that generates solid waste and other materials that must be disposed.

“**Yard Waste**” means grass clippings, mulch, brush, tree limbs, leaves, sticks, or any other item derived from a once-living tree or plant species.

5.08.02 Authorized Collectors. All residential, commercial and industrial Units shall use the Contractor or Approved Subcontractor as set forth herein. Residents, owners or authorized agents of Units shall not negotiate for the collection of Solid Waste other than those arranged by the City through the Contractor and Approved Subcontractor and no persons shall opt to assume the responsibility of disposal of Solid Waste for themselves or in any other manner not specifically set forth by this code. Any individual found to be disposing of Solid Waste in a manner not permitted by this code shall be guilty of a violation of this chapter and punished as provided by 5.08.10 herein.

- A. Franchise Fee. The City grants to the Contractor the exclusive right and obligation to provide Solid Waste and Recycling collection services for Units within the City boundaries. The terms of such exclusive franchise shall be in accordance with the provisions of any such Solid Waste and Recycling Agreement between the Contractor and the City. No other person or entity except such Contractor or Approved Subcontractor shall be permitted to convey or transport Solid Waste or Recycling for Units within the City. The Contractor or Approved Subcontractor shall pay the city a Franchise fee, which shall be set at four percent (4%) of the rates charged for the privilege of doing business in the City, pursuant to such Agreement between the City and the Contractor and Subcontractor.
- B. Use of City Streets. The Contract and Approved Subcontractor shall have the right and privilege to operate collection vehicles and equipment on such streets, public ways, rights-of-ways, or easements of the City.

5.08.03 Collection. Weekly collections are to be made under the following conditions:

- A. Approved Containers Required. All Units shall set out Solid Waste and Recycling for collection by the Contractor or Approved Subcontractor in Approved Containers.
 - 1. Responsibility for Containers. Contractor shall retain ownership of all Approved Containers. Damaged or lost Approved Containers shall be replaced with the costs of replacement to be billed to the resident or user unless the damage or loss is caused by the Contractor. If a resident fails to return an Approved Container upon moving from a residential Unit, the resident shall be billed for the replacement of the Approved Container.
 - 2. Non-Recycling. Non-Recyclables shall not be placed in the Approved Container for Recycling.

- B. Location. All Solid Waste and Recycling shall be placed at a location, by 6:00 a.m. on the designated weekly collection day that is readily accessible to the Contractor's personnel.
1. Residential Waste and Recycling. Solid Waste and Recycling shall be placed at a single collection point within six (6) feet of the curb. Scavenging of Recycling materials placed at the curb in Approved Containers shall not be permitted.
 2. Commercial Waste and Industrial Waste. Solid Waste and Recycling shall be kept on the premises in Approved Containers and placed at a single collection point in a place near the street or alley, readily accessible to the collection vehicles.
 3. Residential Yard Waste. Bundles and/or Brush must be limited to a total volume per week of 1 cubic yard or less and shall be located at a single collection point within six (6) feet of curb.
 4. Accessibility. Contract shall provide front porch or house line service to any resident age sixty-five (65) or older or who has a documented disability that makes the placement of the Approved Containers on the curbside difficult.
- C. Residential Solid Waste and Recycling Collection Frequency. Contractor shall collect one (1) time per week the Residential Waste for each residential Unit that is placed in a Provided Container as set forth herein. Provided Containers shall be placed by the resident of a Unit in a location that is readily accessible to Contractor and its collection equipment, not to exceed six (6) feet from the curb or edge of the travel portion of the street, road or alley, and not to be located in a manner that will block the driveway or mailbox or otherwise inhibit proper servicing. The Contractor shall not be required to collect (i) any Residential Waste that is not placed in a Provided Container, (ii) any Residential Waste from a Provided Container that is overloaded, or (iii) a Provided Container that is not properly placed curbside. A residential Unit shall be permitted one extra garbage bag per week for collection provided that it is placed on top of Provided Container.
1. Residential Yard Waste. Contractor will provide residential Yard Waste service one (1) time per week to residential Units. Bundles and/or Brush must be limited to a total volume per week of 1 cubic yard or less. Contractor shall have no obligation to collect any Brush or Bundles in excess of the 1 cubic yard pile limit, or any Construction Debris produced by a Commercial Service Provider hired by a Customer and generated and located at that residential Unit.

- D. Holidays. There shall be no Solid Waste or Recycling collection on Thanksgiving, Christmas and New Year's Day. The collection of Solid Waste or Recycling for days which fall on a Holiday shall occur on the following day.

5.08.04 Accumulation of Waste and the Placement of Containers.

- A. It shall be unlawful for the owner, occupant, tenant or lessee of any dwelling or place of business, or Unit, in the City to allow Solid Waste or Recycling to accumulate on his premises, or to place or cause to be placed the containers therefore in such a manner as to cause unsanitary conditions in the City. If the owner of any Unit or dwelling or place of business, after having been given twenty-four (24) hours' notice in writing by the City, shall refuse or neglect to perform the duties in connection with his property as specified in this chapter, the City is hereby authorized to enter upon the property and have the Solid Waste removed and the costs shall be charged against the premises.
- B. It shall be a violation of this section for such owner, occupant, tenant or lessee to place, more than twenty-four (24) hours before or allow to remain more than twenty-four (24) hours after the scheduled collection date, Solid Waste, Recycling, trash, or garbage containers at the curbside pickup point except for a showing of just cause. The collection date and curbside collection point shall be established by the authorized agent, or his authorized representative, who shall give adequate notice thereof to each owner, occupant, tenant or lessee.
- C. The curbside collection point is established only for efficient and economical collection service, and it shall be the duty of each premises' occupant to keep the containers at all times other than as allowed by this section at a location on his premises which is suitable and consistent with the standard set forth herein.
- D. It shall be a violation of this section for such owner, occupant, tenant or lessee of any dwelling place, Unit or business in the City, or any person, to dispose of Solid Waste Recycling or Yard Waste, or construction waste, by dumping or discharging said waste on any property within the City except through the use of approved services as provided for in this Ordinances. If a person is found to have disposed of Solid Waste, Recycling or Yard Waste in a manner not allowed by ordinance, he shall be guilty of a violation of this chapter and punished as provided by 5.08.10 herein.

5.08.05 Removal of Construction Refuse, Old Appliances, Bulky Waste, Etc.

- A. The Contractor shall not in any way be required or obligated to collect or remove from private property refuse or debris resulting from the repair, razing or construction of buildings, nor to render any other service unless specifically provided for in this chapter. The removal of such items is the responsibility of the owner, occupant, tenant or lessee of the property.

- B. The Contractor shall provide rates for the removal of Bulky Waste a special Bulky Waste collection service twice per year to all residential customers, unless otherwise specified. Contractor shall also city wide clean-ups for Bulky Waste in the fall and springs at locations which will be announced from time to time.

5.08.06 Rates and Billing. The rates to be charged for sanitation services shall be as follows:

- A. Residential Units. The rate and charges for collection of Solid Waste and Recycling shall be as set, and as amended from time to time, by the Solid Waste Service Agreement between the City and the Contractor.

1. City Water Residential Unit. The rates and charges for each City Water Residential Unit shall be billed and collected separately by the City to the individual City Water Residential Unit customer by incorporation of all such rates and charges, including applicable sales tax and franchise fee, into the monthly bill for water and/or water and sewer services from the City. The City will initiate billing for new City Water Residential Unit Customers and all customers shall be billed in advance on a monthly basis at the applicable rate unless notified by Contractor that a customer qualifies for another rate. Failure of a customer in a City Water Residential Unit to pay the charges for Solid Waste and Recycling and water and/or water and sewer charges on the monthly bill when due shall lead to the discontinuation of the collection of Solid Waste and Recycling collection as well as the possible discontinuation of water and/or water and sewer service.

2. Non-City Water Residential Unit. The rates and charges for each Non-City Water Residential Unit shall be billed and collected separately by the Contractor to the individual Non-City Water Residential Unit customer(s). Such billing shall include applicable sales tax and franchise fee and shall be billed in advance on a quarterly basis. Payment shall be due from Non-City Water Residential Unit by the 20th day of the first month of each quarter. Past due customers are subject to suspension of services as well as late fee charges and interest.

- B. Commercial and Industrial Units. The rates and charges for the collection of Solid Waste and Recycling, including all applicable sales tax and charges, shall be set by the negotiation of commercially reasonable pricing and charges between the customer and the Contractor in accordance with the amount of service required.

5.08.07 Responsibility for Payment of Bill. The fact that legal title to property is in any person, business or other entity, constitutes prima facie proof that the person, business or other entity is responsible for the payment of charges provided for in this chapter. The fact that charges incurred were for services provided to a tenant, agent or other person using the title

holder's property shall not be grounds for avoidance of penalties under this ordinance.

5.08.08 Penalties. Any person refusing or failing to pay any charge assessed pursuant to the provisions of this Chapter, including both the failure to pay for Residential Solid Waste and Recycling collection and the failure to pay for the collection of Commercial or Industrial Waste, shall be guilty of a violation of this chapter and punished as provided by 5.08.10 herein.

5.08.09 Containment of Construction Refuse and Debris. The general contractor of any construction site shall provide adequate trash containment facilities for the construction site. All such trash containment facilities must be able to hold a minimum of five (5) cubic yards of refuse, and must contain no openings of greater than three (3) inches. The trash containment facility must be in place no later than at the time of the first required inspection of the site by the City or its authorized representative. The trash containment facility shall be emptied on a regular basis. If the city received a complaint regarding a trash containment facility at a construction site, the City or its authorized representative shall notify the general contractor in writing regarding the complaint, and shall request that efforts be undertaken by the general contractor to remedy the situation. If subsequent complaints are received by the city pertaining to the same construction site, the City or its authorized representative shall provide the general contractor with written notice that the general contractor has three (3) working days in which to remedy the situation. If the general contractor does not remedy the situation within that time, it shall be considered a violation of this code, and shall be punishable pursuant to 5.08.10 of this code. In addition, the City or its authorized representative shall cease all inspections until the construction site complies with this section.

5.08.10 Fines Whoever violates any provisions of the ordinance shall be guilty of a misdemeanor and may be punished by a fine or not less than Ten Dollars (\$10.00), not more than Five Hundred Dollars (\$500.00) for the first offense, not less than Ten Dollars (\$10.00), not more than Two Hundred Fifty Dollars (\$250.00) for each offense each day, plus court costs and reasonable attorney fees for each violation.

Section 2. The Cave Springs Municipal Code for the City of Cave Springs, Arkansas shall remain unchanged in all respects other than those mentioned hereinabove.

Section 3. All ordinances and resolutions or parts of ordinances and resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

Section 5. Declaration of Emergency. It is hereby found and determined that Chapter 5.08 Solid Waste Collect of Title 5 Health and Sanitation, of the Cave Springs Municipal Code should be immediately amended in order to provide for the proper and efficient collection of

Solid Waste and Recycling within the City of Cave Springs. Therefore, an emergency is declared to exist, and this act, being immediately necessary for the preservation and protection of the public peace, health, safety and welfare of the City and its citizens, shall become effective on the date of its passage and approval by the Mayor. If the Ordinance is neither approved nor vetoed by the Mayor, it shall become effective on the expiration of the period of time during which the Mayor may veto this Ordinance. If the Ordinance is vetoed by the Mayor and the veto is overridden by the City Council, it shall become effective on the date the City Council overrides the veto.

PASSED AND APPROVED this ___th day of May, 2016.

APPROVED:

Travis Lee, Mayor

(SEAL)

ATTEST:

Kim Hutcheson, City Recorder